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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,304	09/18/2003	Brian J. Vanbenschoten	05918-294001 / VGCP No.	9059
26161	7590	02/27/2006	5	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER EASHOO, MARK	
			ART UNIT	PAPER NUMBER
			1732	
DATE MAILED: 02/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/666,304

Applicant(s)

VANBENSCHOTEN ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39,41-46 and 68-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39,41-46 and 68-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 39, 41-42, 68-69, and 74 are rejected under 35 U.S.C. 102(b) as being anticipated by Spiering (US Pat. 4,682,691).

Spiering teaches the claimed process of forming a touch fastener, comprising: forming a composite sheet (Figs. 1 and 2); the composite sheet having a plurality of alternating side-by-side lanes (Figs. 1-2); a plurality of lanes comprising a first polymeric material (1:20-25 and Fig. 1, elements 26, 28) and a second polymeric material which is foamed (Fig. 1, element 12b); a plurality of fastener elements extending outward from at least on exposed surface of the first material lane of composite sheet (1:20-25 and Fig. 1, elements 26, 28); and adhering/bonding or stitching/bonding the lanes in place (2:40-3:50).

It is inherent that all the material pieces used to make the touch fastener product of Spiering were “formed” and therefore meet the process steps of “forming”.

Claim 39, 41-42, 68-69, 71, 73, and 74 are rejected under 35 U.S.C. 102(b) as being anticipated by Mates (US Pat. 3,464,094).

Mates teaches the claimed process of forming a touch fastener, comprising: forming a composite sheet (Figs. 1-5); the composite sheet having a plurality of alternating side-by-side lanes (Figs. 1-5); a plurality of lanes comprising a first polymeric material (1:60-65, Figs. 1-5) and a second polymeric material which is foamed (2:50-55, 3:4-10, and Fig. 1-5); a plurality of fastener elements extending outward from at least on exposed surface of the first material lane of the composite sheet (1:60-65, Figs. 1-5); securing/bonding the lanes in place (3:5-10 and 5:70-6:5); a polyurethane rubber/elastomer foam (2:50-55); and wherein the second foamed material has a greater height than the lane of the first material (Figs. 1-5).

It is inherent that all the material pieces used to make the touch fastener product of Mates were “formed” and therefore meet the process steps of “forming”.

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 44-46, 70, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiering (US Pat. 4,682,691).

Spiering teaches the basic claimed process as set forth above.

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Spiering does not teach forming a foam material using a chemical foaming agent or by injecting gas. However, Official Notice is taken that forming a foam material using a chemical foaming agent or by injecting gas is well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious to have used a chemical foaming agent or by injecting gas, as commonly practiced in the art, in the process of Spiering, and would have been motivated to do so in order to use established methods for foaming materials on site rather than purchasing and transporting a bulky low weight product to the fastener forming site.

Spiering does not teach using a polypropylene thermoplastic vulcanizate foam or polypropylene fasteners. It is submitted that polypropylene thermoplastic vulcanizates (TPV's) are known to contain recycled vulcanized rubbers and as such contain a thermosetting material. However, Official Notice is taken that polypropylene thermoplastic vulcanizate foam or polypropylene fasteners are well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious to have used a polypropylene thermoplastic vulcanizate foam or polypropylene fasteners, as commonly practiced in the art, in the process of Spiering, and would have been motivated to do so in order to use established low-cost materials depending upon the desired final product requirements (ie. physical properties).

Claims 44-46, 70, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mates (US Pat. 3,464,094).

Mates teaches the basic claimed process as set forth above.

Mates does not teach forming a foam material using a chemical foaming agent or by injecting gas. However, Official Notice is taken that forming a foam material using a chemical foaming agent or by injecting gas is well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious to have used a chemical foaming agent or by injecting gas, as commonly practiced in the art, in the process of Mates, and would have been motivated to do so in order to use established methods for foaming materials on site rather than purchasing and transporting a bulky low weight product to the fastener forming site.

Mates does not teach using a polypropylene thermoplastic vulcanizate foam or polypropylene fasteners. It is submitted that polypropylene thermoplastic vulcanizates (TPV's) are known to contain recycled vulcanized rubbers and as such contain a thermosetting material. However, Official Notice is taken that polypropylene thermoplastic vulcanizate foam or polypropylene fasteners are well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious to have used a polypropylene thermoplastic vulcanizate foam or polypropylene fasteners, as commonly practiced in the art, in the process of Mates, and would have been motivated to do so in order to use established low-cost materials depending upon the desired final product requirements (ie. physical properties).

Claims 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spiering (US Pat. 4,682,691) in view of Kurtz, Jr. et al. (US Pat. 6,692,674).

Spiering teaches the basic claimed process as set forth above.

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Spiering does not teach forming a composite fastener sheet, having side-by-side lanes, by coextrusion. However, Kurtz, Jr. et al. teaches forming a composite fastener sheet having discrete fastener regions (1:5-40 and 7:3-21). Spiering and Kurtz, Jr. et al. are combinable because they are from the same field of endeavor, namely forming fastener products. At the time of invention a person of ordinary skill in the art would have found it obvious to have formed a composite fastener sheet, having side-by-side lanes/bands, by coextrusion, as taught by Kurtz, Jr. et al., in the process of Spiering, and would have been motivated to do so because Kurtz, Jr. et al. suggest that such processing is an equivalent and alternative means of assembling a composite fastener product (1:5-40).

Claims 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mates (US Pat. 3,464,094) in view of Kurtz, Jr. et al. (US Pat. 6,692,674).

Mates teaches the basic claimed process as set forth above.

Mates does not teach forming a composite fastener sheet, having side-by-side lanes, by coextrusion. However, Kurtz, Jr. et al. teaches forming a composite fastener sheet having discrete fastener regions (1:5-40 and 7:3-21). Mates and Kurtz, Jr. et al. are combinable because they are from the same field of endeavor, namely forming fastener products. At the time of invention a person of ordinary skill in the art would have found it obvious to have formed a composite fastener sheet, having side-by-side lanes/bands, by coextrusion, as taught by Kurtz, Jr. et al., in the process of Mates, and would have been motivated to do so because Kurtz, Jr. et al. suggest that such processing is an equivalent and alternative means of assembling a composite fastener product (1:5-40).

### ***Response to Arguments***

Applicant's arguments with respect to all pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

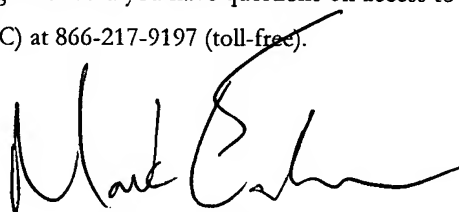
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*Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaiaanni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Eashoo, Ph.D.  
Primary Examiner  
Art Unit 1732

me  
February 21, 2006

21/Feb/06